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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,660	12/03/2001	Hiroshi Miyajima	15126	9638

7590 06/03/2004  
Scully, Scott, Murphy & Presser  
400 Garden City Plaza  
Garden City, NY 11530-0299

EXAMINER
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ALLEN, DENISE S

ART UNIT	PAPER NUMBER
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2872

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/004,660

Applicant(s)

MIYAJIMA ET AL.

Examiner

Denise S Allen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.  
2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.  
4a) Of the above claim(s) 4-21 and 23 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1 and 22 is/are rejected.  
7) ☒ Claim(s) 2 and 3 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 03 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments with respect to claims 1 – 3 and 22 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Murakami et al (US 6,188,504)

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Murakami et al teaches a mirror rocking member (Figures 36 - 44) for an optical deflector, which comprises the mirror rocking member for deflecting light, and driving means (references 704, 706, 719, and 720) for driving the member, the mirror rocking member comprising: a movable plate (reference 701) having a reflective surface (reference 705); elastic

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members (reference 702) for rockably supporting the movable plate; and a support (reference 703) for supporting the elastic members, the movable plate having an electric element (reference 706), which constitutes a part of the driving means, the movable plate including a first portion (Figure 37 the layer at reference 705) having the reflective surface, and a second portion (the layers at the top) including an electric element, the first portion having a reflective-surface forming surface (reference 705) with the reflective surface formed thereon, the reflective-surface forming surface being reflective (column 42 lines 1 – 4) substantially throughout (the entire surface of reference 705), the second portion having an electric-element forming surface (the top surface of reference 701) with the electric element formed thereon and the reflective-surface forming surface of the first portion being formed in such a shape as to be substantially inscribed in the electric-element forming surface of the second portion (the reflective-forming surface, the bottom surface of the movable plate, is substantially enclosed within the perimeter of the electric-element forming surface so that every vertex, all four corners of the rectangle, of the reflective-forming surface is incident on the perimeter of the electric-element forming surface at the corners of the electric-element forming surface), wherein the reflective surface forming surface of the first portion has an area smaller than an area of the electric-element forming surface of the second portion (the area of the reflective surface forming surface is smaller than the area of the electric element forming surface due to the tapered sides of reference 701), and the reflective-surface forming surface of the first portion is positioned opposite to the electric-element forming surface of the second portion in the direction of the thickness of the movable plate (reference 705 is on the bottom of reference 701 and reference 706 is on the top of reference 701).

*Allowable Subject Matter*

Claims 2 and 3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 2 is allowable over the prior art for at least the reason the prior art fails to teach and/or suggest the reflective-surface forming surface of the first portion having an elliptical shape as set forth in the claimed combination.

Claim 3 is allowable over the prior art for at least the reason the prior art fails to teach and/or suggest the reflective-surface forming surface of the first portion having an dodecagonal shape as set forth in the claimed combination.

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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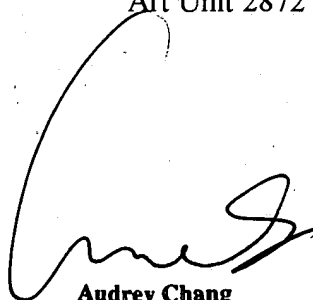
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Denise S Allen whose telephone number is (571) 272-2305. The examiner can normally be reached on Monday - Friday, 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Denise S Allen  
Examiner  
Art Unit 2872

  
dsa



**Audrey Chang**  
**Primary Examiner**  
**Technology Center 2800**